NEWS NOTES

OF THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS

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C.O. Wins Citizenship Appeal

Harlan Hears First C.O. Case

Judge John Harlan, appointed to the United States Supreme Court November 8, heard his first case involving the draft November 5. Although he is a member of the Second Circuit Court of Appeals, he was sitting in the Third Circuit as a visiting judge for the de Lime appeal at that time. Judge Harlan was appointed to the Second Circuit March 4, but he has not heard any of the draft cases before that Circuit. His appointment to the Second Circuit was his first judicial experience.

Thomas de Lime, a conscientious objector, received a one year sentence June 25, 1954, in Newark, N. J., for refusal to submit to induction. He is free on bond while the appeal is pending.

The de Lime appeal was argued before Chief Judge John Biggs and Judge Harry E. Kalodner in addition to Harlan. Esther Frankel of Patterson, N. J., represented de Lime. Assistant U.S. Attorney Albert Besser of Newark represented the government.

The case (121 F.Supp. 750) involves a number of points, and in the light of Judge Harlan's new appointment they take on added interest. Judge Harlan's only comment during the appeal argument indicated his lack of familiarity with selective service law. In the course of the argument he asked if there wasn't some way to get to the "substance of the matter." Apparently he was willing for the court to go into the question of whether de Lime was entitled to C.O. classification instead of listening to the arguments on the procedural questions.

Novel Point Raised

A novel point in the appeal concerns the manner of participation by the local board appeal agent in de Lime's personal appearance before the local board. The appeal agent questioned de Lime extensively at the hearing. The questioning was in the nature of a prosecuting attorney in cross-examination, and the defense contends that this unusual activity by the agent violated the registrant's rights. Judge Biggs expressed considerable interest in this point. Besser pointed out that there is no case law on it, and that he could find no proscription of such participation by the agent in a local board hearing. He stated that he thought that the appeal agent was at least present in 99.9% of such hearings. In addition to the manner of participation, the defense objected to the fact that there was not even any notation in the file to show that the appeal agent did participate.

Among other defense contentions were that the FBI report should have been produced in court, that the resume of the report was deficient, that the local board had an inadequate understanding of the C.O. provisions of the law, and that the Hearing Officer made errors.

Board of Immigation Appeals Voids Butgereit Deportation Order

In an order dated November 12, the Board of Immigration Appeals terminated the deportation proceedings pending against Roy Butgereit of Fairhope, Alabama. A Special Inquiry Officer of the Immigration and Naturalization Service had ordered Butgereit deported on the allegation that he had left the United States to evade military duty. (For complete details see NEWS NOTES, June 1954, and July-August 1954.)

Butgereit is a conscientious objector and a citizen of this country by birth. On his 18th birthday, October 31, 1950, he left this country for an extended visit in Costa Rica. He left without registering for the draft at a time when U.S. citizens living abroad had no obligation to register. He registered at the United States Consulate in Costa Rica when required to do so by a Presidential Proclamation. The registration was forwarded to his local draft board in Alabama for processing. Neither Selective Service nor the Department of Justice has charged Butgereit with any violation of the draft law.

The Board of Immigration Appeals pointed out that Butgereit "candidly admits that he is not willing to serve in the armed forces of this country."

However, the decision went on to state, "An intention not to serve in the armed forces of this country is not an expatriatory act under Section 401(j) of the Nationality Act unless there is a departure from or remaining outside of the United States coupled with the purpose of avoiding such service. In determining the purpose of the respondent's departure from this country, it is necessary to consider his case as a whole, weighing both his testimony and his actions."

After considering the testimony and acts, the Board concluded, "The case is not entirely free from doubt, but we feel that the clear and convincing evidence required in a finding of loss of citizenship is lacking . . . Accordingly, we conclude that on the basis of the evidence of record, the respondent has not expatriated himself."

Oliver Stone of Washington, D.C., represented Butgereit before the Board of Immigration Appeals. Stone was retained by CCCO to defend the case.

The settling of the matter on the facts precludes any court test on Constitutional issues raised in this case. The Central Committee for C.O.'s was prepared to carry the case through the appeal courts, if necessary, to determine whether a conscientious objector who is a native-born citizen could constitutionally be deprived of his citizenship under the circumstances of the Butgereit case.

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Doty Appeal Argued

Attorneys for the four Doty brothers urged the Eighth Circuit Court of Appeals to reverse the convictions in oral argument in St. Louis November 16. Joel, Orin, Paul and Sid Doty were each sentenced to two years in prison last March 5. They are free on bond while the appeal is pending.

Chester Bruvold of Minneapolis, the defense attorney, was joined by J. B. Tietz, Los Angeles specialist in selective service law, for the appeal argument. The appeal is from the second conviction for the Dotys. The Dotys served sentences for refusal to register but were registered by prison officials before their release. These registrations were sent to the local board where the Dotys were processed as regular registrants and eventually ordered to report for induction. Since the men are conscientious objectors to all participation in conscription they did not file questionnaires or report for induction.

The men argue that the registration by the prison officials is invalid. They also contend that the extension of age of liability for induction to allow "cat and mouse" prosecutions is a violation of the intent of Congress. Joel Doty was past his 26th birthday when ordered to report for induction. The local board sent Joel a II-A classification (II-A is for essential workers) without even knowing what he was doing. This classification was an obvious move to extend his age of liability for induction. The law provides that deferred registrants shall have their liability extended to age 35.

The Department of Justice and Selective Service contend that being classified IV-F while incarcerated in prison as a conscientious objector extends the age of liability. This ruling, if not upset by the courts, leaves nonregistrant conscientious objectors subject to possible prosecution after prosecution until age 35.

A committee to raise funds to help pay the expenses on these four appeals has been set up by the executive committee of the Fellowship of Reconciliation in Minnesota. Contributions may be sent to Arthur Sternberg, Treasurer, Doty Appeal Committee, 1563 Fairmount Ave., St. Paul 5, Minnesota.

New Draft Law Planned

The current draft law established the Selective Service System as a permanent government agency. However, the authorization to conscript men under 26 who have not been deferred expires June 30, 1955. It is expected that Congress will pass a new conscription bill before June 30.

The Washington Post for November 19 reported that the National Security Council has informally approved plans for a three million man combat-ready reserve to be maintained by compulsory service. This plan would include re-enactment of the present 24-month draft law. Also included would be authorization for the Army to enroll volunteers for six months basic training and then transfer to a National Guard or other organized reserve unit, where the men would be compelled to attend drills and camps for a period of 7½ years, subject to re-induction if they did not attend. Draftees would be expected to serve three years in a National Guard or reserve unit following the two years in the Army. Draft deferments would be cut down and military duty made as universal as possible. This means military domination over almost every man for a period of either five or eight years.

One of the first and most influential organizations to come out against an extension of the conscription law in time of peace was the Council of Bishops of the Methodist Church. In a statement issued at its meeting in Chicago November 21, the Council stated, "Militarism as a way of life is a foe of democracy, and our forefathers fled to these shores to escape it. We call upon our people to prevent any attempt to fasten peacetime conscription on the American people."

"I know quite well that when I speak on the subject of peace, I do not contribute anything that is essentially new. My profound conviction is that the solution consists in our rejecting war for an ethical reason, because it makes us capable of inhuman crimes."

Dr. Albert Schweitzer in Nobel Peace Prize Lecture for 1954, as quoted in Peace News.

Court Hits SSS Bulletin

In the case of Talcott v. Reed decided October 23 the Ninth Circuit Court of Appeals took vigorous exception to a policy decision of the Selective Service System sent out to local boards in Operations Bulletin 57.

Conscientious objection was not involved. Talcott sought his release from the Army by a writ of habeas corpus which was denied by the District Court. The I-A classification given Talcott was contested on the basis of hardship. During a postponement of induction Talcott's family hardship was intensified by his wife's first pregnancy.

The Ninth Circuit granted the writ to release Talcott from the Army primarily on the grounds that he should have been given a personal hearing by the local board. However, the Operations Bulletin, which was rescinded by Selective Service prior to the decision, was also considered.

The government's brief quoted the Bulletin as stating, ". . . that pregnancy is a status over which the registrant does have control, and it is therefore not a claim which can be classified under 'hardship' such as sickness, death, or an extreme emergency beyond the registrant's control."

To this the Court declared, "We think the contents of the bulletin are morally and legally wrong. It invades the most sacred precinct of family life at a time when there should be the most complete mutuality between the spouses and in the face of nature's most demanding and significant urge in nature's scheme for propagating the species. It obliquely charges the youth of the land with corrupting the family relation into a way of avoiding service for cowards."

The Ninth Circuit is the second appeal court to rule that evaluations of pregnancy are outside the jurisdiction of Selective Service. In another habeas corpus case, Mintz v. Howlett (207 F.2d 758), the Second Circuit Court of Appeals ruled that a local board inquiry into the nature of a pregnancy to determine if it was an effort to escape induction "would surely be weird, if not against public policy, and seems clearly against the spirit of the regulations."

Congressmen Ask for Report

The Department of Justice still refuses to release any report on its investigation of the treatment of two conscientious objectors by Assistant U.S. Attorney Ronald Greenberg in Detroit. CCCO filed a complaint with the Attorney General after receiving information indicating that Greenberg attempted to intimidate two C.O.'s who had placed an ad offering information on conscientious objection in *The Michigan Daily*. (For details see NEWS NOTES, October, 1954 and November, 1954.)

A number of the readers of NEWS NOTES have been writing their Senators and Representatives asking for a report from the Department of Justice. Many Congressmen have indicated that they are asking for a report.

Senator Albert Gore of Tennessee was told by the Department of Justice that the controversy was caused by the handling of a case arising out of complaints of Selective Service. This is the first official confirmation that Selective Service, presumably the Michigan office, had filed the original objections to the ad with the U.S. Attorney in Detroit.

Senator Gore was not given a report on what the Department of Justice investigation disclosed. He was misinformed by the Justice Department that organizations are seeking the dismissal of Greenberg. Actually, CCCO and other organizations as well as individuals have been only seeking the facts on the matter. However, a number feel that dismissal would be warranted if the facts are as alleged, and the Department of Justice has not denied their accuracy.

Briefly Noted

The Mennonites have now forged ahead on the international character of their assigned civilian work program. Drafted conscientious objectors from England, Holland and the United States are serving together in a Mennonite Voluntary Service flood clean-up workcamp at Dreischor, Holland. This is the first project to come to the attention of NEWS NOTES with draftees from three countries serving their period of conscription as conscientious objectors. At one time a German C.O. and a Belgian C.O. were also at the camp, but they were not draftees.

* * *

Pope Pius XII has recently issued a statement saying that the scope of the church's authority extends beyond purely religious matters to social and political problems. One area listed by the Pope as coming withing the authority of the church was "The morality of war as waged today and whether a conscientious person might give or withhold his cooperation with it." (Quotation from *New York Times.*)

* * *

To those universities granting exemption from ROTC for conscientious objectors should be added the University of Alaska, the University of Puerto Rico, the University of Washington, and Ohio State University. It has been reported that although Oregon State College does not have a formal arrangement for exemptions, some exemptions have been granted.

* * *

Applications for the Selective Service College Qualification Tests December 9 are no longer being accepted. The next test will be given April 21, 1955. College students who have not taken the test but who are taking a fulltime course of study are eligible to take the examination. Conscientious objectors are eligible for student deferments on the same basis as other registrants. Requests for deferment do not invalidate a claim for eventual C.O. status.

* * *

The resolutions of the 1954 National Conference of Methodist Youth approved either conscientious participation or conscientious objection to war. Nonregistration was included with conscientious objection. The Conference opposed any type of universal military training and compulsory ROTC.

Quakers Boycott Civil Defense

Philadelphia had a civil defense drill November 23 in which mass evacuation was tried on an unprecedented scale. City Hall and a few nearby blocks were supposed to be completely emptied of workers, residents, and persons passing through the area. The district covered included the offices of the Peace Committee and the Social Order Committee of the Philadelphia Yearly Meetings of Friends. These two committees refused to participate in the drill, and the staffs remained at work during the mock atomic raid.

The Policy Committee of the Friends Peace Committee issued a lengthy statement the day before the drill explaining why the Committee would not participate. The statement was a ringing affirmation of the possibilities for peace. It was also a strong denunciation of public conditioning for the inevitability of war.

The statement pointed out that the dramatic demonstration would do more harm than good in its effect on the mental attitudes of the participants and deplored the growing peace time influences of military institutions on the public.

The Friends said that the time and effort should be spent on positive measures to prevent war instead of emphasizing the defeatism of inevitable war.

The newspaper coverage of the Quakers' dissent was an interesting example of the part the press plays in this public conditioning. The earliest editions of the papers the day ahead of the drill carried prominent stories, but all mention of the statement was dropped from the later editions. The edition of the *Evening Bulletin* which covered the drill in minute detail devoted 118 column inches to it without a word about any objections of any kind. The *Inquirer*, the morning paper, gave the objectors the same silent treatment.

THE COURT REPORTER

I PROSECUTIONS

Sentence confirmed since last issue

4 - 9 -54 Harlan McCall, 5 years subsequently reduced to 2 years, (Freeport, Ill.) Judge J. Sam Perry, sentence started 8-15-54

4 - 23-54 Joe Chapman, 6 months, (Miami, Fla.)

Sentence since last issue

10-20-54 Clifton Campbell, 3 years, (Harrisonburg, Va.) Judge John Paul, bond denied while appeal pending

Acquittal

11- ? -54 Garry Brewer (Wilkesboro, N.C.) Judge Johnson Hayes

II RELEASED FROM PRISON

On parole

7 - 2 -54 William Weir
8 - 3 -54 Monty Prothero
10-23-54 Gordon Carey
11-15-54 Melvin Chupp
11-16-54 Emanuel Miller
11-18-54 George Lillis
11-29-54 Arthur Duffy

On Good Time

- 9 - 22-54 Joe Chapman

III MEN CURRENTLY IMPRISONED

Federal Correctional Institution, Danbury, Conn.—Richard Blazej, James Playford, Francis Playford, Saul Wider, Franklin Berggren

Federal Prison Camp, Florence, Arizona—P. A. Nazeroff

Federal Prison Camp, Mill Point, W. Va.—Clifton Campbell

Federal Correctional Institution, Milan, Mich.—Carl Nead, Ronald Wrightsman, Peter Yoder

Federal Reformatory, Petersburg, Va. — Carl Nickel, Finley Cerwithian

Federal Correction Institution, Seagoville, Tex.—Bill Passmore, William Moser

Medical Center for Federal Prisoners, Springfield, Mo.—Clarence Bryan, Howard Roberson, Burton Rosen, Henry Adamowicz, John Forbes, Ralph Dorn, Bradford Lyttle, Eddie Powell, Harlan McCall, Joseph Arnold

Federal Prison Camp, Tucson, Ariz.—Robert Kent, Robert Hollingshead, Ervin Waters, Fred Hildebrand

Total number of C.O.'s convicted since 1948 to date: 278 (This is a minimum number, since J.W.'s and Muslims are not included, and we miss a few.)

SEND CHRISTMAS CARDS

Christmas cards can be sent to the men listed as currently imprisoned. The cards go to the address reported. The cards should be signed, but no message other than the printed greeting should be sent.

Each year at this season CCCO suggests that the friends of C.O.'s in prison take this opportunity to express their fellowship with these men.

There is no more pertinent topic today than that of juvenile delinquency. Now the Brooklyn Bar Ass'n. is going to make a "searching investigation" of it.

Good. But it seems to us that the investigations on the subject always proceed in a vacuum. Important truths are ignored in the endeavor to find a "cause."

We'd start with World War I. Millions of young boys are set to killing and maiming each other. Then there is a period of "peace" while the bread lines form. No work for idle hands, except such as the devil and an unwilling government can provide. Then World War II, with the youth of the world again slaughtering each other wholesale. Comes an uneasy peace and generations of youth are taught everywhere to shoot and knife to kill. A world of violence and war.

"Growl when I talk to you," says the drill sergeant at bayonet practice, "don't just answer. And when I ask you your name, you yell 'Wolf.' "

"Now, what's a bayonet for?

"To KILL!

"And how does it kill?

"By ripping out a man's guts!"

You take it from there and explain juvenile delinquency in generations of boys trained to violence and war.

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